

Notice of Allowability

Application No.

09/697,206

Examiner

MINH-TAM DAVIS

Applicant(s)

AFAR ET AL.

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to interview of 09/16/04, 09/21/04.
2. ☒ The allowed claim(s) is/are 32, renumbered as 1.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 10/05/03;06/02/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 09/21/04.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

It is noted that Applicant's response filed 03/22/04 placed the application in condition for allowance based on the record at that time. The Examiner's Amendment is made in lieu of reopening prosecution in order to remedy informalities which were brought to Applicant's attention for the first time in the telephone Interview of 09/16/04. Accordingly, no further extension of time is required to make the Examiner's Amendment which places the Application fully in condition for allowance.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with JIMM MULLEN on 09/21/04.

In the specification.

The continuation data on page 1, lines 3-5 of the specification have been updated as follows:

This application claims the benefit of United States provisional patent application number 60/162,364, filed October 28, 1999, now abandoned, the entire contents of which are incorporated herein by reference.

In the claims:

Claims 1-31 were cancelled.

Claim ¹~~32~~ was amended as follows:

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~~Claim 32~~¹ (Amended): A method of diagnosing the presence of cancer in an individual comprising:

(a) determining the level of 20P2148 ~~gene~~ (SEQ ID NO: 1) mRNA expression in a test sample obtained from the individual; and

(b) comparing the level so determined to the level of 20P2118 ~~gene~~ (SEQ ID NO: 1) mRNA expression in a known normal tissue sample of the same tissue type as the test sample,

wherein elevated 20132118 ~~gene~~ (SEQ ID NO: 1) mRNA expression in the test sample relative to the normal tissue sample is diagnostic of the presence of cancer, and wherein the 20P2118 mRNA expression is determined utilizing SEQ ID NO:1 as a probe.

Claims 33-64 were cancelled.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH-TAM DAVIS whose telephone number is 571-272-0830. The examiner can normally be reached on 8:30AM-5:00PM.

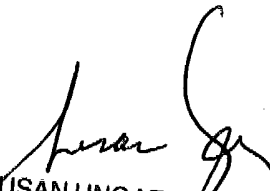
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JEFFREY SIEW can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MINH TAM DAVIS

October 06, 2004



SUSAN UNGAR, PH.D.
PRIMARY EXAMINER